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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/068,713	02/06/2002	Tadayoshi Takahashi	10059-407US (P25715-02)	1638
570	7590	09/21/2004	EXAMINER	
AKIN GUMP STRAUSS HAUER & FELD L.L.P. ONE COMMERCE SQUARE 2005 MARKET STREET, SUITE 2200 PHILADELPHIA, PA 19103-7013			MERCADO, JULIAN A	
			ART UNIT	PAPER NUMBER
			1745	

DATE MAILED: 09/21/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No. 10/068,713	Applicant(s) TAKAHASHI ET AL. 	
	Examiner Julian Mercado	Art Unit 1745	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 04 June 2004.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-4 is/are pending in the application.
 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-4 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
 Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
 Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
 a) ☒ All b) ☐ Some * c) ☐ None of:
1. ☒ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

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DETAILED ACTION

Remarks

This Office action is responsive to applicant's amendment filed June 4, 2004.

Original claims 1-4 are presently pending.

Priority

Receipt is acknowledged of papers submitted under 35 U.S.C. 119(a)-(d), which papers have been placed of record in the file.

Claim Rejections - 35 USC § 102 and 103

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

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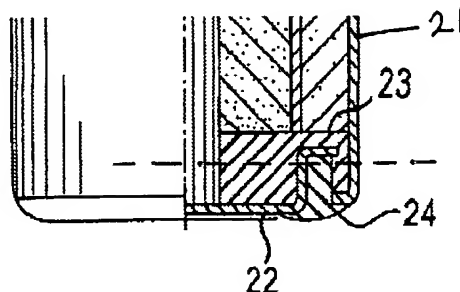
Claims 1 and 3 rejected under 35 U.S.C. 102(e) as anticipated by or, in the alternative, under 35 U.S.C. 103(a) as obvious over Horie et al. (U.S. Pat. 6,146,789).

Claims 2 and 4 are rejected under 35 U.S.C. 103(a) as being unpatentable over Horie et al. as applied to claims 1 and 3 above, in view of Shibantai et al. (U.S. Pat. 4,772,291).

In maintaining the present ground of rejection(s), the examiner notes that the rejections have been discussed in detail in the previous Office Action, and as the scope of the present claims are presented unamended from those considered in the previous Office Action these rejections are maintained for the reasons already of record and for the additional reasons to follow.

The examiner acknowledges applicant's reiteration of the rejections under 35 U.S.C. 102(e) and/or under 35 U.S.C. 103(a) based on Horie et al. on pp. 2-3 of applicant's response.

Applicant submits that the sealing portion [24] in Horie et al. is not situated between the metal case [21] and the gasket [23] but is rather outside of the gasket, case, and negative electrode. In reply, the examiner maintains that the sealing portion is situated between the metal case [21] and gasket [23] as least along the phantom line shown below.



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The examiner notes that a fair reading of applicant's specification as well as applicant's remarks on the sealant according to the invention on page 3, fourth full paragraph of the present response appears to be drawn to the sealant [9] being in *direct contact* between the metal case and elastomeric sealing body. (emphasis added) "[B]ecause *adhesion* between the sealant and other components are excellent, sealing performance can be maintained, even against excessive temperature changes and thermal stress". (*ib*, emphasis added) However, the scope of the present claims merely require that the sealant be situated between the metal case and gasket, which does not preclude other components from being intermediary or interposed between the metal case and gasket. To this extent, in Horie et al. the sealant [21] is considered to be between the metal case [21] and gasket [23] insofar as being disposed in following configuration: gasket [23]/negative electrode [22]/sealant [24]/gasket [23]/metal case [21].

As to the claimed sealant permitting an easy check from the outside of the sealed battery, this alleged distinction is not persuasive as it is outside the scope of the present claims.

Regarding the cyanine dye in Horie et al. not being an organic pigment, this argument is not persuasive as the examiner asserts that cyanine is indeed a colored organic compound.

Applicant submits that Horie et al. does not recognize the detrimental effects of that cyanine would have such as for use in the present invention. This is not persuasive in view of the cyanine dye disclosed by Horie et al. being readable on the claimed "organic pigment". The examiner maintains that phthalocyanine and cyanine are art-recognized equivalents. The purported advantages of phthalocyanine, e.g. stronger colors,

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higher solvent stability etc. are not considered “unexpected results” in that these properties are deemed inherent in phthalocyanine *per se*.

Conclusion

THIS ACTION IS MADE FINAL. Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than **SIX MONTHS** from the mailing date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Julian Mercado whose telephone number is (571) 272-1289. The examiner can normally be reached on Monday through Friday.

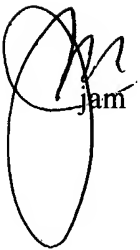
If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Patrick J. Ryan, can be reached on (571) 272-1292. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status

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information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is (703) 308-0661.



Patricia Lynn
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